

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.2146, 2147, 2148, 2155, 2282 and 2283 of 2015

Date: 04-12-2015

Between:

Panchayat Secretary, Settipalli Gram Panchayat

Settipalli, Tirupathi Rural Mandal, Chittoor

District

.... Petitioner

AND

K. Venkatanarayana Raju

.... Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.2146, 2147, 2148, 2155, 2282 and 2283 of 2015

COMMON ORDER:

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Since the issue involved in all these civil revision petitions is identical, they are being disposed of by this common order.

The defendant in O.S.No.134 of 2013 on the file of I Additional District Judge, Tirupathi is the petitioner in C.R.P.No.2146 of 2015. The defendant in O.S.No.40 of 2013 on the file of I Additional District Judge, Tirupathi is the petitioner in C.R.P.No.2147 of 2015. The defendant in O.S.No.36 of 2013 on the file of I Additional District Judge, Tirupathi is the petitioner in C.R.P.No.2148 of

2015. The defendant in O.S.No.38 of 2013 on the file of I Additional District Judge, Tirupathi is the petitioner in C.R.P.No.2155 of 2015. The defendant in O.S.No.214 of 2013 on the file of I Additional District Judge, Tirupathi is the petitioner in C.R.P.No.2282 of 2015. The defendant in O.S.No.212 of 2013 on the file of I Additional District Judge, Tirupathi is the petitioner in C.R.P.No.2283 of 2015.

The respondent in all these revision petitions filed respective suits for permanent injunction restraining the defendant therein from interfering with the subject land in the respective suits. After filing the written statement, the petitioner in these revision petitions filed respective interlocutory applications for rejection of plaint as no notice was issued under Section 138-A of the Andhra Pradesh Panchayat Raj Act, 1994. The said interlocutory applications were dismissed by the trial Court by order dated 27-04-2015. Challenging the said order, the present Civil Revision Petitions are filed.

The revision petitioner in all these revision petitions in the written statements as well as in the affidavits filed in support of the applications stated that the plaint schedule property is not a plot, but a part of 150 feet road and the title and possession of the said property lies with the defendant Gram Panchayat. In those circumstances, the suit for permanent injunction against the land vested in the Gram Panchayat is not maintainable, without issuing a notice under Section 138-A of the A.P. Panchayat Raj Act. The said averment made by the petitioner was denied by the respondent herein by filing a counter. In the light of the said averments, the trial Court extracted Section 138-A of the Act and gave a finding that it is not the case of the plaintiff that the defendant is acting under the Provisions of the Panchayat Raj Act, but he is claiming a threat of dispossession with the instigation of land grabbers with malafide intention and the said malafide intention was alleged against the defendant. It was held that the said section was not applicable. The Court below also observed that it was not a fit stage to reject the plaint basing on the pleadings made by the defendant in his written statement or in an application for rejection of plaint.

The Court below has not considered the applications filed by the petitioners in these revision petitions in proper perspective and unnecessarily made observations with regard to application of the provisions of Section 138-A of the Act to the facts case. In view of serious objection raised by the plaintiff in the counter affidavit, some evidence has to be let in on this aspect whether the land claimed by the petitioner is part of 150ft. road, which was vested in the Gram Panchayat or not. In the circumstances, this Court is inclined to set aside the impugned orders dated 27-04-2014 passed in interlocutory applications. The learned I Additional Junior Civil Judge is directed to frame an appropriate issue with regard to maintainability of the suit for non-issuance of notice under Section 138-A of the A.P. Panchayat Raj Act, 1994 along with other issues and record evidence for the said issue. Since the suits are for permanent injunction, which were filed in the year 2013, the Court below is directed to dispose of the same as expeditiously as possible, but not later than 30-09-2016.

The Civil Revision Petitions are, accordingly, allowed to the extent indicated above. No costs.

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RAMALINGESWARA RAO, J

Date: 04-12-2015

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